

108TH CONGRESS
2D SESSION

S. 2220

To amend the Internal Revenue Code of 1986 to encourage a strong
community-based banking system.

IN THE SENATE OF THE UNITED STATES

MARCH 22, 2004

Mrs. HUTCHISON introduced the following bill; which was read twice and
referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to encourage
a strong community-based banking system.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Savings
5 and Investment Act of 2004”.

6 **SEC. 2. INCOME TAX ON QUALIFIED COMMUNITY LENDERS.**

7 (a) IN GENERAL.—Section 11 of the Internal Rev-
8 enue Code of 1986 (relating to tax imposed on corpora-
9 tions) is amended by redesignating subsection (d) as sub-

1 section (e) and by inserting after subsection (c) the fol-
 2 lowing:

3 “(d) QUALIFIED COMMUNITY LENDERS.—

4 “(1) IN GENERAL.—In the case of a qualified
 5 community lender, in lieu of the amount of tax
 6 under subsection (b), the amount of tax imposed by
 7 subsection (a) for a taxable year shall be the sum
 8 of—

9 “(A) 15 percent of so much of the taxable
 10 income as exceeds \$250,000 but does not ex-
 11 ceed \$1,000,000, and

12 “(B) the highest rate of tax imposed by
 13 subsection (b) multiplied by so much of the tax-
 14 able income as exceeds \$1,000,000.

15 “(2) QUALIFIED COMMUNITY LENDER.—For
 16 purposes of paragraph (1), the term ‘qualified com-
 17 munity lender’ means a bank—

18 “(A) which achieved a rating of ‘satisfac-
 19 tory record of meeting community credit needs’,
 20 or better, at the most recent examination of
 21 such bank under the Community Reinvestment
 22 Act of 1977,

23 “(B) the outstanding local community
 24 loans of which at all times during the taxable

1 year comprised not less than 60 percent of the
2 total outstanding loans of that bank,

3 “(C) meets the ownership requirements of
4 paragraph (3), and

5 “(D) at all times during the taxable year
6 has total assets of not more than
7 \$1,000,000,000.

8 “(3) OWNERSHIP REQUIREMENTS.—

9 “(A) IN GENERAL.—The ownership re-
10 quirements of this paragraph are met with re-
11 spect to any bank if—

12 “(i) no shares of, or other ownership
13 interests in, the bank are publicly traded,
14 or

15 “(ii) in the case of a bank the shares
16 of which or ownership interests in which
17 are publicly traded, the last known address
18 of the holders of at least $\frac{2}{3}$ of all such
19 shares or interests, including persons for
20 whose benefit such shares or interests are
21 held by another, is in the home State of
22 the bank or a State contiguous to such
23 home State.

1 “(B) HOME STATE DEFINED.—For pur-
2 poses of subparagraph (A), the term ‘home
3 State’ means—

4 “(i) with respect to a national bank or
5 Federal savings association, the State in
6 which the main office of the bank or sav-
7 ings association is located, and

8 “(ii) with respect to a State bank or
9 State savings association, the State by
10 which the bank or savings association is
11 chartered.

12 “(4) OTHER DEFINITIONS.—For purposes of
13 this subsection—

14 “(A) BANK.—The term ‘bank’—

15 “(i) has the meaning given to such
16 term in section 581, and

17 “(ii) includes any bank—

18 “(I) in which at least 80 percent
19 of the shares of, or other ownership
20 interests in, the bank are owned by
21 other qualified community lenders,
22 and

23 “(II) the sole purpose of which is
24 to serve the banking needs of such
25 lenders.

1 “(B) LOCAL COMMUNITY LOAN.—The term
2 ‘local community loan’ means—

3 “(i) any loan originated by a bank to
4 any person, other than a related person
5 with respect to the bank, who is a resident
6 of a community in which the bank is char-
7 tered or in which it operates an office at
8 which deposits are accepted, and

9 “(ii) any loan originated by a bank to
10 any person, other than a related person
11 with respect to the bank, who is engaged
12 in a trade or business in any such commu-
13 nity, to the extent that all or substantially
14 all of the proceeds of such loan are ex-
15 pended in connection with the trade or
16 business of such person in any such com-
17 munity.

18 “(C) RELATED PERSON.—The term ‘re-
19 lated person’ means, with respect to any bank,
20 any affiliate of the bank, any person who is a
21 director, officer, or principal shareholder of the
22 bank, and any member of the immediate family
23 of any such person.”.

1 (b) S CORPORATION INCOME.—Section 1 of the In-
 2 ternal Revenue Code of 1986 (relating to tax imposed) is
 3 amended by adding at the end the following:

4 “(j) COMMUNITY LENDER INCOME FROM S COR-
 5 PORATION.—

6 “(1) IN GENERAL.—If a taxpayer has commu-
 7 nity lender income from a S corporation for any tax-
 8 able year, the tax imposed by this section for such
 9 taxable year shall be the sum of—

10 “(A) the tax computed at the rates and in
 11 the same manner as if this subsection had not
 12 been enacted on the greater of—

13 “(i) taxable income reduced by com-
 14 munity lender income, or

15 “(ii) the lesser of—

16 “(I) the amount of taxable in-
 17 come taxed at a rate below 25 per-
 18 cent, or

19 “(II) taxable income reduced by
 20 community lender income, and

21 “(B) a tax on community lender income
 22 computed at—

23 “(i) a rate of zero on zero-rate com-
 24 munity lender income,

1 “(ii) a rate of 15 percent on 15 per-
 2 cent community lender income, and

3 “(iii) the highest rate in effect under
 4 this section with respect to the taxpayer on
 5 the excess of community lender income on
 6 which a tax is determined under clause (i)
 7 or (ii).

8 “(2) COMMUNITY LENDER INCOME.—For pur-
 9 poses of paragraph (1)—

10 “(A) IN GENERAL.—The term ‘qualified
 11 community lender income’ means taxable in-
 12 come (if any) of a qualified community lender
 13 (as defined in section 11(d)(2)) that is an S
 14 corporation, determined at the entity level.

15 “(B) ZERO-RATE COMMUNITY LENDER IN-
 16 COME.—The term ‘zero-rate community lender
 17 income’ means the taxpayer’s pro rata share of
 18 so much of community lender income as does
 19 not exceed \$250,000.

20 “(C) 15 PERCENT COMMUNITY LENDER IN-
 21 COME.—The term ‘15 percent community lend-
 22 er income’ means the taxpayer’s pro rata share
 23 of so much of community lender income as ex-
 24 ceeds \$250,000 but does not exceed
 25 \$1,000,000.

1 “(D) SPECIAL RULES.—

2 “(i) For purposes of this paragraph,
3 the taxpayer’s pro rata share of commu-
4 nity lender income shall be determined
5 under part II of subchapter S.

6 “(ii) This subsection shall be applied
7 after the application of subsection (h).”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2003.

11 **SEC. 3. EXCLUSION FROM INCOME TAXATION FOR INCOME**
12 **DERIVED FROM BANKING SERVICES WITHIN**
13 **DISTRESSED COMMUNITIES.**

14 (a) IN GENERAL.—Part III of subchapter B of chap-
15 ter 1 of the Internal Revenue Code of 1986 (relating to
16 items specifically excluded from gross income) is amended
17 by inserting after section 140A the following new section:

18 **“SEC. 140B. BANKING SERVICES WITHIN DISTRESSED COM-**
19 **MUNITIES.**

20 “(a) IN GENERAL.—At the election of the taxpayer,
21 gross income shall not include distressed community bank-
22 ing income.

23 “(b) DISTRESSED COMMUNITY BANKING INCOME.—
24 For purposes of subsection (a), the term ‘distressed com-
25 munity banking income’ means net income of a qualified

1 depository institution which is derived from the active con-
 2 duct of a banking business in a distressed community.

3 “(c) QUALIFIED DEPOSITORY INSTITUTION.—For
 4 purposes of this section, an institution is a qualified depos-
 5 itory institution if—

6 “(1) such institution is an insured depository
 7 institution (as defined in section 3 of the Federal
 8 Deposit Insurance Act (12 U.S.C. 1813)),

9 “(2) such institution is located in, or has a
 10 branch located in, a qualified distressed community,
 11 and

12 “(3) as of the last day of the taxable year, at
 13 least 85 percent of its loans from its location within
 14 the qualified distressed community are local commu-
 15 nity loans (as defined in section 11(d)(4)(B)).

16 “(d) DISTRESSED COMMUNITY.—For purposes of
 17 this section, the term ‘distressed community’ has the
 18 meaning given the term ‘qualified distressed community’
 19 by section 233 of the Bank Enterprise Act of 1991 (12
 20 U.S.C. 1834a(b)).”.

21 (b) CLERICAL AMENDMENT.—The table of sections
 22 for part III of subchapter B of chapter 1 of the Internal
 23 Revenue Code of 1986 is amended by inserting after the
 24 item relating to section 140A the following:

“Sec. 140B. Banking services within distressed communities.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

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